THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.22503 of 2006

Dated: 30.11.2007

Between:

M.Prabhakar Reddy and others.

… PETITIONERS

AND

The District Collector, Machilipatnam, and others.

… RESPONDENTS

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.22503 of 2006

O R D E R:

This writ petition is filed for a writ of Mandamus to set aside notification dated 26.09.2006 issued under Section 4(1) of the Land Acquisition Act, 1894 (for short, the Act), whereunder some of the lands belonging to the petitioners and situated in survey Nos.4/2, 5/5 and 5/4 of Janardhanapuram Village, Nandiwada Mandal, Krishna District, are proposed to be acquired.

The main contention of the petitioners is that the respondents have violated the provisions of Section 4(1) of the Act by not publishing notification under said Section in the newspapers having circulation in the area. It is contended that the said notification was published in "Janatha" daily newspaper of Vijayawada edition, which has no circulation at Gudivada or in the nearest town of the petitioners' Village. The petitioners apart from taking this stand in the affidavit filed in support of the main writ petition also filed another affidavit in support of their application in W.P.M.P.No.32450 of 2007 wherein the said plea is reiterated that "Janatha" daily newspaper which is one of the two newspapers in which notification under Section 4(1) of the Act was published has no circulation in nearby towns also. Certain certificates were also filed by the petitioners in support of the said averment. Ms.A.Prabhavathi, Revenue Divisional Officer-cum-Land Acquisition Officer, Gudivada, Krishna District, filed a counter affidavit, in which it is, *inter alia,* averred that the notification under Section 4(1) of the Act was published in Krishna District Gazette on 17.10.2006, "Janatha" daily newspaper on 23.10.2006 and "Indian Express" daily newspaper on 24.10.2006. Since there is no specific denial of the allegation that

"Janatha" daily newspaper has no circulation in the area, by order 23.11.2007, this Court directed as under:

> "The petitioners filed additional affidavit along with material papers in support of their contention that 'Janatha' paper has no circulation in Gudivada area.
> The respondent shall file additional counter affidavit along with the names of agents of 'Janatha' paper in Gudivada area and the details of the daily circulation of the said paper in that area.
> Post on 30.11.2007."

In purported compliance of the said order Ms.A.Prabhavathi filed her additional counter affidavit, in which while reiterating her plea that the notification was published in "Janatha" daily newspaper and "Indian Express" daily newspaper on 23.10.2006 and 24.10.2006 in paragraph 3 she submitted as under:

> It is submitted that the 'Janatha' Daily News Paper is having two Correspondents informed to have been acting as Agents in Gudivada Division at the rate of one in Gudivada town and the other at Kaikaluru Village as per the information furnished by the Divisional Public Relation Officer, Gudivada. It is further informed by the Divisional Public Relation Officer, Gudivada that 460 copies of 'JANATHA' Daily News Papers are under circulation in Gudivada Division and whereas 4,430 copies are under Circulation in Krishna District. It is submitted that the publication of Draft Notification U/s.4(1) of L.A.Act., was made in this case with the strict compliance of the provisions laid down under L.A.Act.

From the affidavit I find that third respondent was vague and evasive in disclosing the information, which was directed to be given by this Court on 23.11.2007. She has not referred to the names of the agents of "Janatha" daily newspaper. It was merely mentioned that the said newspaper has two correspondents acting as agents in Gudivada Division and this information is hearsay since she claimed that the same was furnished by the Divisional Public Relation Officer, Gudivada. She has not explained the reason for not disclosing the

names of the alleged acting agents. As regards the circulation she has stated that she was informed by the Divisional Public Relation Officer, Gudivada, that 460 copies of "Janatha" daily newspaper under circulation in Gudivada Division and whereas 4,430 copies are under circulation in Krishna District. No material is produced in support of the said averment contained in the additional counter affidavit. Under Section 4(1) of the Act, the notification to be issued under the said provision shall be published in two daily newspapers *circulated in that locality* of which at least one shall be in the regional language. The words "*circulated in that locality*" shall be reasonably construed as to mean that they are available in the area/locality in which the lands proposed to be acquired or situated. Despite giving an opportunity to third respondent she failed to show any material, leave alone come out with the specific details as to the persons who are circulating this newspaper in the locality in which the lands are proposed to be acquired. Under Article 300-A of the Constitution of India, no person shall be deprived of his property save by authority of law. The provisions of the Act envisage the procedure to be followed in acquiring the private lands. As held in **Hindustan Petroleum Corpn. Ltd. v. Darius Shapur Chenai**[1] the Act being expropriatary in nature, its provisions have to be strictly construed. Therefore, unless the respondents are able to show that the notification under Section 4(1) of the Act was published in newspapers which have circulation in the locality where the lands are located, the notification cannot be sustained in law. The very purpose of the Act making a provision for giving wide publicity by way of notification under Section 4(1) of the Act is to enable the owners of the property which is proposed to be acquired to have knowledge of the said proposal. Therefore, the provisions of Section 4(1) of the Act are required to be strictly complied with. On the facts of this case, I am satisfied that the respondents violated the provisions of Section 4(1) of the Act as they failed to show

that “Janatha” daily newspaper has circulation in the locality, namely, Janardhanapuram, Nandivada Mandal, Krishna District. I have, therefore, no hesitation to quash notification dated 26.09.2006, which is impugned in this writ petition. As regard the other contentions raised in the writ petition, they are not pressed for the present in view of the disposal of this writ petition on the above mentioned ground.

The writ petition is allowed accordingly.

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C.V. NAGARJUNA REDDY, J

30th November, 2007
ghn

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[1] AIR 2005 SC 3520